



The Attorney General of Texas

December 31, 1982

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Mr. Roy Rutland, III
Assistant City Attorney
P. O. Box 1088
Austin, Texas 78767

Open Records Decision No. 348

Re: Purchase price of lease
of land for sanitary landfill

Dear Mr. Rutland:

You have requested a decision under the Open Records Act, article 6252-17a, V.T.C.S. The facts, as stated in your request letter, are as follows:

The city of Austin, Texas currently has pending before the Texas Department of Health an application for a municipal solid waste disposal site permit in accordance with the Texas Solid Waste Disposal Act, V.T.C.S. 4477-7. In connection with this pending permit application, the city has entered into an option agreement to lease a large tract of land on a long-term basis for a certain monthly rental payment. The city received on July 14, 1982, a written request from... an attorney representing landowners opposing the issuance of the proposed permit, for copies of the option agreement and the proposed lease agreement, together with associated correspondence, pursuant to V.T.C.S. 6252-17a. It is the city's position that such portions of the requested documents as divulge the price to be paid for the lease in question fall under the exceptions to the Open Records Act's disclosure requirements as set out in section 3(a)(4) and 3(a)(5).

We first discuss the scope of your request. You have indicated that the formal request for information that you received was quite comprehensive. Indeed, in his letter to you, the requestor stated that he wanted:

All documents, writings, letters, reports or other written, printed, typed or copied material dealing with the option contract or lease agreement on the Pearce Lane landfill site as described in an application pending before the Texas State Health Department.

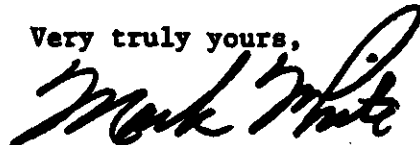
In your request letter, however, you stated that the city's position is "that such portions of the requested documents as divulge the price to be paid for the lease in question" are excepted from required disclosure. We infer from this that you only seek to withhold this information, and that you are willing to release everything else that was requested.

Section 3(a)(5) of the Open Records Act excepts from required public disclosure:

information pertaining to the location of real or personal property for public purposes prior to public announcement of the project, and information pertaining to appraisals or purchase price of real or personal property for public purposes prior to the formal award of contracts therefor.

This section is clearly applicable here. It excepts from required disclosure "information pertaining to [the] purchase price of real... property," and we have no doubt that this language was intended to embrace the lease price of real property as well. We therefore conclude that you may withhold those portions of the requested materials that "divulge the price to be paid for the lease in question until the formal award of the contract." We have marked the relevant portions.

Very truly yours,



MARK WHITE
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